UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,988	10/20/2000	Frank Robertson Dawson JR.	RSW920000076US1	8088

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EXAMINER
REVAK, CHRISTOPHER A

ART UNIT	PAPER NUMBER
2131	

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/692,988	DAWSON ET AL.
	Examiner	Art Unit	
	Christopher A. Revak	2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 October 2004*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail. Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   In view of the appeal brief filed on October 12, 2004, PROSECUTION IS

HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the

following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply

under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied

by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130,

1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1-8,13-25, and 30 are rejected under 35 U.S.C. 102(e) as being

anticipated by Touboul et al, U.S. Patent 6,154,844.

As per claims 1,18, and 30, it is disclosed by Touboul et al of a computer

readable storage medium containing program code for use as a method for a data

processing system that preventing the exchange of viruses (col. 1, lines 23-27; col. 5,

lines 48-53; and col. 14, lines 8-10). A Downloadable and a first Downloadable Security

Profile, or DSP (collectively interpreted as pre-existing content) for a device is

maintained in a first location (col. 2, lines 50-53). A second DSP (new content),

associated with the device is placed in a second location, wherein the new content is an

update to the Downloadable and first DSP (collectively interpreted as pre-existing

content)(col. 6, lines 17-24; col. 8, line 65 through col. 9, line 11; col. 11, lines 47-51;

and as shown in Figure 6). The downloadable and first DSP (collectively interpreted as

pre-existing content and second DSP (new content) combined in a third location to form

a downloadable with multiple DSPs (merged content)(col. 4, lines 35-38; col. 6, lines 20-

21; and col. 7, lines 60-64). A check for viruses if performed on the downloadable with

multiple DSPs (merged content) prior to transferring of the new content (col. 4, lines 35-

38; col. 5, lines 48-58; and as shown in Figures 6 & 7).

As per claims 2 and 19, it is taught by Touboul et al of sending the downloadable

with multiple DSPs (merged content) to the device if a virus is absent from the

downloadable with multiple DSPs (merged content)(col. 4, lines 35-38; col. 5, lines 48-

58; col. 10, lines 14-18; and as shown in Figures 6 & 7).

As per claims 3 and 20, Touboul et al of discloses of sending the downloadable with multiple DSPs (merged content) as downloadable and first DSP (collectively interpreted as pre-existing content) to the device if a virus is absent from the downloadable with multiple DSPs (merged content)(col. 4, lines 35-38; col. 5, lines 48-58; col. 10, lines 14-18; and as shown in Figures 6 & 7).

As per claims 4 and 21, it is disclosed by Touboul et al of the device being a wireless device (col. 11, lines 2-7).

As per claims 5 and 22, Touboul et al teaches of the device being a personal computer (col. 11, lines 2-4).

As per claims 6 and 23, it is taught by Touboul et al of using a hard disk drive in the data processing system (col. 6, lines 51-65).

As per claims 7 and 24, Touboul et al teaches that the hard disk drive is stored in a LAN (remote location) to the data processing system (col. 6, lines 51-65).

As per claims 8 and 25, the teachings of Touboul et al disclose of use of a random access memory in a data processing system (col. 7, lines 2-9).

As per claim 13, it is taught by Touboul et al of a data processing system that includes a bus system, memory connected to the bus system, wherein the memory contains a set of instructions, and a processing unit connected to the bus system (col. 1, lines 23-27; col. 6, lines 25-35; and col. 11, lines 8-10). A Downloadable and a first Downloadable Security Profile, or DSP (collectively interpreted as pre-existing content) for a device is maintained in a first location (col. 2, lines 50-53). A second DSP (new content), associated with the device is placed in a second location, wherein the new

content is an update to the Downloadable and first DSP (collectively interpreted as pre-existing content)(col. 6, lines 17-24; col. 8, line 65 through col. 9, line 11; col. 11, lines 47-51; and as shown in Figure 6). The downloadable and first DSP (collectively interpreted as pre-existing content) and second DSP (new content) combined in a third location to form a downloadable with multiple DSPs (merged content)(col. 4, lines 35-38; col. 6, lines 20-21; and col. 7, lines 60-64). A check for viruses if performed on the downloadable with multiple DSPs (merged content) prior to transferring of the new content (col. 4, lines 35-38; col. 5, lines 48-58; and as shown in Figures 6 & 7).

As per claim 14, it is disclosed by Touboul et al that the bus system includes a primary bus and a secondary bus (col. 6, lines 50-65 and col. 10, lines 25-35).

As per claim 15, Touboul et al teaches of bus system comprising a single bus (col. 6, lines 50-65).

As per claim 16, Touboul et al discloses of the processing unit comprising a plurality of processor types (col. 6, lines 25-35).

As per claim 17, Touboul et al teaches of the processor unit including a single processor (col. 6, lines 50-65).

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 9-12,26-29, and 31 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Touboul et al, U.S. Patent 6,154,844 in view of Donahue, U.S. Patent

6,202,207.

As per claims 9 and 26, the teachings of Touboul et al are silent in disclosing of a

synchronization process between the data processing system and the device. Donahue

discloses of synchronization of downloadable updates between a client and a server

(col. 4, lines 22-28). It would have been obvious to a person of ordinary skill in the art at

the time of the invention to have been motivated to apply synchronization of updates in

order ensure that a client has the most up to date version of software. The teachings of

Donahue disclose motivation for use of synchronization of downloadable updates by

reciting that cost and efforts is significantly reducing as dictated by an update policy

(col. 7, lines 1-7,25-30). It is obvious that the teachings of Touboul et al would have

found the teachings of Donahue beneficial in the sense that when performing the

downloading operations, the downloading can be for updating software on a requesting

client computer that would be synchronized with a server to contain the most recent

version of the requested software as dictated by the teachings of Donahue.

As per claims 10,27, and 31, it is disclosed by Touboul et al of a computer

readable storage medium containing program code for use as a method for a data

processing system that preventing the exchange of viruses (col. 1, lines 23-27; col. 5,

lines 48-53; and col. 14, lines 8-10). A Downloadable and a first Downloadable Security

Profile, or DSP for a device is maintained in a first location (col. 2, lines 50-53). A

second DSP (new content), associated with the device is placed in a second location,

wherein the new content is an update to the Downloadable and first DSP (col. 6, lines 17-24; col. 8, line 65 through col. 9, line 11; col. 11, lines 47-51; and as shown in Figure 6). The downloadable and first DSP and second DSP (new content) combined in a third location to form a downloadable with multiple DSPs (merged content)(col. 4, lines 35-38; col. 6, lines 20-21; and col. 7, lines 60-64). A check for viruses if performed on the downloadable with multiple DSPs (merged content) prior to transferring of the new content (col. 4, lines 35-38; col. 5, lines 48-58; and as shown in Figures 6 & 7). The teachings of Touboul et al are silent in disclosing of a synchronization process between the data processing system and the device. Donahue discloses of synchronization of downloadable updates between a client and a server (col. 4, lines 22-28). It would have been obvious to a person of ordinary skill in the art at the time of the invention to have been motivated to apply synchronization of updates in order ensure that a client has the most up to date version of software. The teachings of Donahue disclose motivation for use of synchronization of downloadable updates by reciting that cost and efforts is significantly reducing as dictated by an update policy (col. 7, lines 1-7,25-30). It is obvious that the teachings of Touboul et al would have found the teachings of Donahue beneficial in the sense that when performing the downloading operations, the downloading can be for updating software on a requesting client computer that would be synchronized with a server to contain the most recent version of the requested software as dictated by the teachings of Donahue.

As per claims 11 and 28, it is taught by Touboul et al of receiving new content from the device (col. 1, lines 47-49 and as shown in Figures 6 & 7).

As per claims 12 and 29, Touboul et al discloses of sending new content to the device (col. 1, lines 44-48 and as shown in Figures 6 & 7).

Conclusion

6.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Touboul, U.S. Patent 6,092,194 discloses of detection of malicious code in a downloadable and applies an attachment to the file listing the malicious code contained therein the downloadable.

Gluck et al, U.S. Patent 5,948,104 discloses of updating antivirus signatures to aid in detecting new virus types.

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Revak whose telephone number is 571-272-3794. The examiner can normally be reached on Monday-Friday, 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Revak
AU 2131

CR

March 9, 2005